

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

*In re* Patent of:

Joan M. HENSON *et al.*

U.S. Patent No.: 7,232,565

Application No.: 10/602,546

Filed: June 23, 2003

Issued: June 19, 2007

For: THE USE OF ENDOPHYTIC FUNGI TO TREAT PLANTS

**RENEWED PETITION UNDER 37  
C.F.R. § 1.182 TO REPRINT THE  
FRONT PAGE OF THE LETTERS  
PATENT**

## Mail Stop Petition

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Sir:

In response to Applicant's petition under 37 C.F.R. §§1.182 and 1.183 requesting that the requirements of 37 C.F.R. §3.81(a) be waived to permit the addition of an omitted assignee to the front page of the Letters Patent, the Office of Petitions treated the petition as a request under 37 C.F.R. §3.81(b) to correct the assignee's name. Because the prior request was not accompanied by a request for a certificate of correction (and fee) as required by 3.81(b), the Office of Petitions dismissed the request, and informed the Applicant that a decision on the petition under 37 C.F.R. §1.182 to reprint the Letters Patent is held in abeyance until a certificate of correction with fee is submitted. Accordingly, a request for correction of assignees' name under 37 C.F.R. §3.81(b) and a request for certificate of correction under 37 C.F.R. §1.323 have been submitted to the Certificate of Correction branch. A copy of each document has been attached herein for your convenience.

On May 11, 2007, Applicant's agent submitted the Issue Fee Transmittal Form PTOL-85 noting the sole assignee as "Montana State University." However, a second assignment to the "Government of the United States of America, Represented by the Secretary of the Department of the Interior" was recorded on October 26, 2004, at Reel/Frame 015917/0334. The failure to include the assignment held by the Government of the United States was an inadvertent oversight by the Applicant's agent during submission of the Issue Fee Transmittal document, PTOL-85B. The error was recognized immediately by the United States Geological Survey upon receipt of the Letters Patent. The assignees promptly notified Applicant's agent of the omission. The petition under 37 C.F.R. §1.183 and the accompanying petition under §1.182 were filed immediately to prevent the second assignee from being deprived of its due recognition as co-owner of the invention.


The assignments for both "Montana State University" and the "Government of the United States of America, Represented by the Secretary of the Department of the Interior" were submitted for recordation as set forth under 37 C.F.R. §3.11 before issuance of the patent. As noted above, an assignment to the "Government of the United States of America, Represented by the Secretary of the Department of the Interior" was recorded on October 26, 2004, at Reel/Frame 015917/0334. An assignment to "Montana State University" was also recorded on October 26, 2004, at Reel/Frame 015949/0905.

The Applicant acknowledges the Office of Petition's statement that upon submission of the required certificate of correction and fee, it would be appropriate for the Office to issue a certificate of correction to correct the front page of the Letters Patent to reflect that "MONTANA STATE UNIVERSITY" and the "GOVERNMENT OF THE UNITED STATES OF AMERICA, REPRESENTED BY THE SECRETARY OF THE DEPARTMENT OF THE INTERIOR" were

the assignees of record at the time of issuance. Accordingly, a request for correction of assignees' name under 37 C.F.R. §3.81(b) and a request for certificate of correction under 37 C.F.R. §1.323 have been submitted to the Certificate of Correction branch along with the \$100.00 fee as set forth in 37 C.F.R. §1.20(a) and the \$130.00 processing fee as set forth in 37 C.F.R. §1.17(i). Because the \$400.00 petition fee required by 37 C.F.R. § 1.17(f) was submitted with the original petition request, Applicant believes that no further petition fee is required. The Director is hereby authorized to charge any additional fees, or credit any overpayment, to Deposit Account 50-1283.

Respectfully submitted,

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May 21, 2008

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Attachments:

- Copy of Applicant's Request for Certificate of Correction under 37 C.F.R. §1.323
- Copy of Applicant's Request to Correctly State the Name of the Assignee under 37 C.F.R. §3.81(b)